

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DANIEL PENA,

Plaintiff,

- against -

THE CITY OF YONKERS, et al.,

Defendants.

TO: THE HONORABLE CATHY SEIBEL
UNITED STATES DISTRICT JUDGE

On March 21, 2013, Plaintiff – then confined at the Westchester County Jail – filed a complaint alleging civil rights violations arising from his arrest, on February 19, 2013, by Yonkers police officers. (Dkt. 2) On May 21, 2013, your Honor issued an Order of Service in this case. (Dkt. 7) Among other things, the Order of Service directed the Clerk of Court to furnish Plaintiff U.S. Marshals Service Process Receipt and Return forms (“USM-285 form”), and instructed Plaintiff that, within 30 days, he must either complete and return the USM-285 forms – if he wanted the Marshals to effect service – or else notify the court that he wished to accomplish service by other means and request that a summons be issued to him directly. The Order of Service advised Plaintiff that he must effect service within 120 days, and cautioned him that if he neither made service nor requested an extension of time in which to do so the Court could dismiss the action for failure to prosecute.¹ The docket reflects that a Service Package including USM-285 forms and other information was mailed to Plaintiff at his address of record on or about May 22, 2013.

¹The Order of Service also warned Plaintiff that he must “promptly submit a written notification to the Court if [his] address changes[.]”

No objections to this Report & Recommendation have been filed. I have reviewed it for clear error and find no error, clear or otherwise. Accordingly, it is

13 Civ. 1958 (CS)(PED) ~~adopted~~
adopted as the decision of

REPORT AND Re Cont.
RECOMMENDATION Re case is

dismissed without prejudice. The Clerk of Court shall close the

case. So Ordered.

Cathy Seibel

U.S.D.J.
12/23/13

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MEMO ENDORSED